

**REMARKS**

**The Section 103 Rejections of Claims 1, 3-4, 6-7, 10-15, 18-19, 21-23, 25, 27-28, 31-32, 34-36, 39-45, 47-48, 50-51, 54-57, 60-61, 63-65, 67, 69, 72-73 and 75-77**

Claims 1, 3-4, 6-7, 10-15, 18-19, 21-23, 25, 27-28, 31-32, 34-36, 39-45, 47-48, 50-51, 54-57, 60-61, 63-65, 67, 69, 72-73 and 75-77 were rejected under 35 U.S.C. §103(a) as being unpatentable over Padovani et al., U.S. Patent No. 6,222,830 ("Padovani") in view of Kusaki et al., U.S. Patent No. 6,754,495 ("Kusaki"). Applicants respectfully disagree and traverse these rejections for at least the following reasons.

As the Final Office Action admits on pages 2-3, Padovani fails to teach the generation of a frame copy. To make up for this deficiency, the Final Office Action again cites Kusaki.

Applicants again respectfully point out that each of the claims of the present invention not only requires the generation of a frame copy in a frame selection system but also requires that an acceptable portion of an enhanced frame generated in the frame selection system be combined with an acceptable portion of the enhanced frame copy based on an error burst representation to form a combined frame of a higher quality than the enhanced frame, for example, during a soft handoff. Applicants again respectfully submit that not only does Padovani fail to disclose or suggest the claimed frame copy generated in the frame selection system, it also fails to disclose or suggest combining an acceptable portion of an enhanced frame with an acceptable portion of an

enhanced frame copy based on an error burst representation to form a combined frame of a higher quality than the enhanced frame.

Applicants take note of the Examiner's comments in the "Response to Arguments" section beginning on page 17 of the Final Office Action. On page 18, the Examiner states that Padovani does teach the generation of a frame copy and cites column 14, lines 8-28 of Padovani, among other excerpts.

Initially Applicants note that this is a contradiction because earlier in the Final Office Action the Examiner stated that Padovani fails to teach the frame copy (see page 2, last line through page 3, first line).

Further, Applicants note that the column 14 excerpt in Padovani relates to claim 23 of Padovani. In claim 23, a cellular telephone generates/transmits a sequence of frames of data. Notably, the claimed cellular telephone does not appear to generate or transmit a copy of each frame that it generates or transmits. Continuing, the frames generated in claim 23 are received by a plurality of base stations. That is, each base station receives the same sequence of frames (just a sequence, not a copy too ...) at the same time. Thereafter, claim 23 states that each base station changes these frames of data by encoding a time stamp onto each of the frames. Thereafter, each base station sends its own time-stamped sequence of frames on to a base station controller so that the base station controller receives multiple instances of the original sequence of frames of data but where each instance has its own time stamp.

Nowhere in claim 23 is it stated that either the cellular telephone, base station or the base station controller generates a *copy* of an *enhanced frame*, as is required by the claims of the present invention.

Applicants also note the Examiner's comments in the Final Office Action which state that Padovani does disclose the combination of an acceptable portion of an enhanced frame with an acceptable portion of an enhanced frame copy. The Examiner cites column 9, lines 19-40 of Padovani in support of this statement.

In reading this excerpt from Padovani, it does not appear that the packet streams A and B discussed therein are related to one another. More specifically, there is no disclosure or suggestion in this excerpt that the two packet streams A and B comprise "at least one enhanced frame" and "at least one enhanced frame copy" as is required by the claims of the present invention.

Additionally, Applicants note that Padovani does not disclose or suggest, the generation of "enhanced frames". As described at least on page 14 of Applicants' specification, an enhanced frame is a frame having an error burst representation indicative of the probable starting location, and length, of a given error burst. There is no disclosure or suggestion in Padovani for the generation of such an enhanced frame.

The fact that Kusaki may disclose the duplication of data (referred to as "duplicated same data" in Kusaki) in no way makes up for the deficiencies of Padovani discussed above.

Said another way, though Kusaki may disclose the generation of a duplicate set of data, it does not disclose or suggest the combination of an acceptable portion of an enhanced frame with an acceptable portion of an enhanced frame copy based on an error burst representation to form a combined frame of a higher quality than an enhanced frame, as required by the claims of the present invention.

Moreover, it appears that Kusaki selects either the original data stream or its duplicate; such a selection is not tantamount to the claimed combined frame which includes information from the original *and* copy, as required by the claims of the present invention.

Accordingly, Applicants respectfully request reconsideration, withdrawal of the pending rejections and allowance of claims 1, 3-4, 6-7, 10-15, 18-19, 21-23, 25, 27-28, 31-32, 34-36, 39-45, 47-48, 50-51, 54-57, 60-61, 63-65, 67, 69, 72-73 and 75-77.

**The Section 103 Rejections of Claims 8, 9, 52 and 53**

Claims 8, 9, 52 and 53 were rejected under 35 U.S.C. §103(a) as being unpatentable over Padovani in view of Kusaki and in further view of Strawczynski et al., U.S. Patent No. 6,381,232 ("Strawczynski").

Applicants note that claims 8, 9, 52 and 53 depend on independent claims 1 and 45. Applicants also note that Strawczynski does not make up for the deficiencies of Padovani and Kusaki discussed above with respect to claims 1 and 45 (see below, with respect to claims 39-39; 79-83). Accordingly,

Applicants respectfully submit that claims 8, 9, 52 and 53 are patentable over a combination of Padovani in view of Kusaki and in further view of Strawczynski for the reasons set forth above with respect to claims 1 and 45.

Accordingly, Applicants respectfully request reconsideration, withdrawal of the pending rejections and allowance of claims 8, 9, 52 and 53.

**The Section 103 Rejections of Claims 16, 29, 58 and 70**

Claims 16, 29, 58 and 70 were rejected under 35 U.S.C. §103(a) as being unpatentable over Padovani in view of Kusaki and in further view of Hendrickson et al., U.S. Patent No. 5,974,584 ("Hendrickson"). Applicants respectfully disagree and traverse these rejections for at least the following reasons.

Applicants note that each of these claims is dependent upon an independent claim discussed above. Therefore, Applicants respectfully submit that each of these claims is patentable over the combination of Padovani in view of Kusaki and in further view of Hendrickson because Hendrickson does not make up for the deficiencies of Padovani and Kusaki discussed above. Hendrickson does not disclose or suggest the combination of an acceptable portion of an enhanced frame with an acceptable portion of an enhanced frame copy based on an error burst representation to form a combined frame of a higher quality than an enhanced frame, as required by the claims of the present invention.

Accordingly, Applicants respectfully request reconsideration, withdrawal of the pending rejections and allowance of claims 16, 29, 58 and 70.

**The Section 103 Rejections of Claims 17, 30, 59 and 71**

Claims 17, 30, 59 and 71 were rejected under 35 U.S.C. §103(a) as being unpatentable over Padovani in view of Kusaki and in further view of Neumiller et al., U.S. Patent No. 6,226,283 ("Neumiller"). Applicants respectfully disagree and traverse these rejections for at least the following reasons.

Applicants note that these claims depend on independent claims discussed above, and, therefore, these claims are also patentable over a combination of Padovani in view of Kusaki and in further view of Neumiller because Neumiller does not make up for the deficiencies of Padovani and Kusaki discussed above. Neumiller does not disclose or suggest the combination of an acceptable portion of an enhanced frame with an acceptable portion of an enhanced frame copy based on an error burst representation to form a combined frame of a higher quality than an enhanced frame, as required by the claims of the present invention.

Accordingly, Applicants respectfully request reconsideration, withdrawal of the pending rejections and allowance of claims 17, 30, 59 and 71.

**The Section 103 Rejection of Claims 39-44 and 79-83**

Claims 39-44 and 79-83 were rejected under 35 U.S.C. §103(a) as being unpatentable over Strawczynski in view of Kusaki and in further view of Padovani. Applicants respectfully disagree and traverse these rejections for at least the following reasons.

Applicants respectfully submit that the Examiner is ignoring the term "copy" in each of the claims of the present invention. For example, the

Examiner refers to combining a frame A with combining a frame B in Strawczynski. Initially, Applicants note that frames A and B are not from the same base station, notwithstanding the statements by the Examiner that they are. Instead, in fact, frame A is from BTS A and frame B is from a separate base station BTS B. In addition, these excerpts from Strawczynski do not disclose or suggest that either of frames A or B is an enhanced frame copy of the other, as is required by the claims of the present invention. Accordingly, Applicants respectfully submit that Strawczynski does not disclose or suggest the combination of “an acceptable portion of an enhanced frame ... with an acceptable portion of an enhanced frame copy ...” as is required by each of the claims.

In addition, neither Kusaki nor Padovani make up for these deficiencies as discussed previously.

Applicants respectfully request reconsideration, withdrawal of the pending rejections and allowance of claims 39-44 and 79-83.

**Entry of Request for Reconsideration After Final Rejection**

Entry of the Request for Reconsideration (“Request”) is requested under 37 U.S.C. §1.116 because the Request: (a) places the application in condition for allowance for the reasons discussed herein; (b) does not raise any new issues regarding further search and/or considerations; (c) does not present any additional claims without canceling the corresponding number of finally

rejected claims; and (d) places the application in better form for appeal, if an appeal is necessary. Entry of the Amendment is thus respectfully requested.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John E. Curtin at the telephone number of the undersigned below.

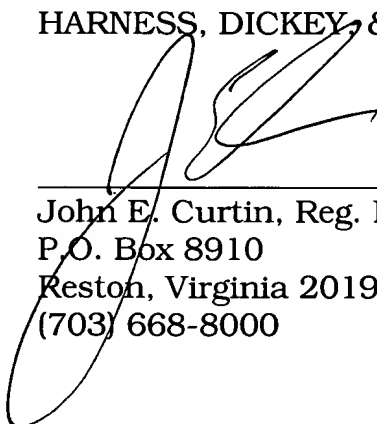
In the event this Response does not place the present application in condition for allowance, applicant requests the Examiner to contact the undersigned at (703) 668-8000 to schedule a personal interview.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKEY & PIERCE, P.L.C.

By



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